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Date: OCTOBER 29, 2004

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U.S. PATENT AND TRADEMARK OFFICE

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Client/Matter No.: AUS920010828US1 (9000/78)

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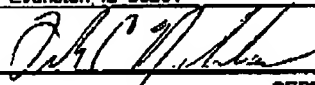
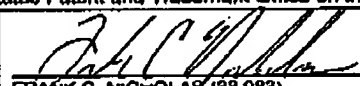
<h1>TRANSMITTAL FORM</h1> <p>(to be used for all correspondence after initial filing)</p>	Attorney Docket No.	AUS920010828US1 (9000/78)
	Application Number	09/981.905
	Filing Date	OCTOBER 18, 2001
	First Named Inventor	ANTHONY E MARTINEZ
	Group Art Unit	2173
	Examiner	BONSHOCK, D. G.

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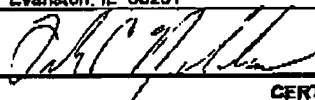
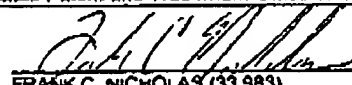
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First Presentation of Multiple Dep. Claim					+ \$150=	—		+ \$300=	
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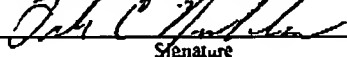
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PATENT
Case No. AUS920010828US1
(9000/78)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent application of:

ANTHONY E. MARTINEZ, ET AL.

Serial No.: 09/981,905

Filed: OCTOBER 18, 2001

Title: METHOD OF VISUALLY INDICATING)
TRANSFER OF DATA IN RESPONSE TO)
A TRANSFER DATA COMMAND)

Examiner: BONSHOCK, D. G.

Group Art Unit: 2173

APPEAL BRIEFCommissioner for Patents
P.O. Box 1450
Alexandria, VA 22202-1450

Dear Sir:

Appellants respectfully present their Brief on Appeal as follows:

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Serial No.: 09/981,905
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1. **REAL PARTY IN INTEREST**

The real party in interest is assignee INTERNATIONAL BUSINESS MACHINES CORPORATION, a corporation organized and existing under the laws of the State of New York, USA and located at New Orchard Road, Armonk, New York 10504, USA

2. **RELATED APPEALS AND INTERFERENCES**

Appellant and the undersigned attorneys are not aware of any appeals or any interferences which will directly affect or be directly affected by or having a bearing on the Board's decision in the pending appeal.

3. **STATUS OF CLAIMS**

Claims 1 -17 are currently pending in the application and stand finally rejected under 35 U.S.C. §102(e) as anticipated by United States Patent 6,396,474 to Johnson. All claims are on appeal. See, the Appendix.

4. **STATUS OF AMENDMENTS**

All previously filed amendments have been entered in the application.

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5. **SUMMARY OF CLAIMED SUBJECT MATTER**

The invention provides a method of visually indicating transfer of data in response to a pointing device data transfer command. The method includes modifying a display position indicator on a display screen based on a data transfer command and animating data transfer on the display screen based on the data transfer command from a pointing device.

6. **GROUND OF REJECTION TO BE REVIEWED ON APPEAL**

- A) Does the display of a visual feedback while a mouse button is depressed, including generation of a text object, snapping the text object to the cursor, flashing the insertion caret at a location under the cursor and moving the text object with the cursor as disclosed by Johnson anticipate, under 35 U.S.C. §102(e), modifying a display position indicator and animating data transfer on the display screen based on the data transfer command as claimed in claim 1?
- B) Does the display of a text object of a limited size as disclosed by Johnson anticipate, under 35 U.S.C. §102(e), "moving the marked object toward the display position indicator while the object is being reduced"

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7. **GROUPING OF CLAIMS**

Claims 1-17 should be grouped as two groups.

Group I consists of claims 1-3, 6, 9-11, 14, and 17, and stands or falls with claim 1.

Group II consists of claims 4-5, 7-8, 12-13 and 15-16, and stands or falls with claim

4.

Groups I and II are distinct, as Group II includes limitations directed at changing the size of the display position indicator.

8. **ARGUMENTS**

GROUP I:

The rejection of claims 1-17 as anticipated under 35 U.S.C §102(e) over Johnson is traversed. In order to maintain this §102(e) rejection, each and every element of the claimed invention must be disclosed in as great detail by the reference. Because the reference does not disclose each and every element, this rejection must fall.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaul Bros. V. Union Oil Co. of Calif.*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1989). "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1990).

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At a minimum, Johnson does not disclose "modifying a display position indicator on a display screen," as claimed in independent claims 1, 9, and 17. The Examiner fails to describe exactly where Johnson discloses a display position indicator. As defined by the instant application, a display position indicator *indicates the completion level* of a current data transfer. The Examiner correctly alleges that Johnson discloses snapping text to a cursor to provide correspondence between movement of the pointer and associated subject matter. However, this "snapping text" is entirely different than indicating the completion level of a data transfer. Johnson moves a portion of the text being moved with the cursor – the claimed invention includes a display position indicator to indicate the completion level of a data transfer. Both Johnson and the claimed invention include the use of visuals to indicate activity – Johnson visualizes moving *text* by moving text, while the claimed invention visualizes the completion level of a task by modifying a *display position indicator*.

The Examiner's comment in ¶16 of the August 25, 2004 office action illustrates the Examiner's failure to prove a §102(e) rejection. The Examiner correctly notes that Johnson teaches a "system in which text is snapped to a cursor for the purpose of moving the text." While the Examiner is correct, it is clear that a system in which text is snapped to a cursor is not the identical invention as "modifying a display position indicator... based on a data transfer command and animating data transfer on the display screen" as claimed. First, "snapping" and "animating" are entirely different. Second, text is not a display position indicator.

Johnson does not disclose each and every element claimed in claim 1 in as great as detail as claimed. Therefore, the §102(e) rejection must fail.

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GROUP II:

Johnson does not disclose, at a minimum, "reducing a marked object to a reduced object" as claimed in claim 4. The Examiner's statements to the contrary are misplaced, as Johnson makes no such disclosure.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. V. Union Oil Co. of Calif.*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1989). "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1990).

At most, Johnson discloses that the size of the text object may be limited. *See*, column 4, lines 20-34. The Examiner's other citations to Johnson are wholly silent as to reducing the size of a marked object. *See*, column 5, lines 3-5, column 7, lines 5-10 and FIGS. 3A-3C of Johnson.

The Examiner's failure to prove anticipation is further illustrated by the Examiner's comments with respect to claim 5. Claim 5 requires moving the marked object toward the display position indicator *while* the object is being reduced (emphasis added). In response, the Examiner only alleges that Johnson discloses that the size of a text string may be changed after the text string has been moved - "... where the selected text is gradually moved to the other end of the cursor (non-pointed end) where size may be modified." Thus, Johnson does not disclose moving the object *while* the object is being reduced.

Similarly, claim 7 requires "expanding the reduced object." Johnson does not disclose expanding a reduced object.

Since Johnson does not disclose "reducing a marked object to a reduced object" as claimed in claim 4, the §102(e) rejection must fail.

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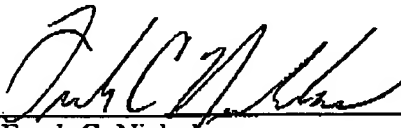
CONCLUSION

The Applicants respectfully submit that claims 1-17 fully satisfy the requirements of 35 U.S.C. §§102, 103 and 112. In view of the foregoing, favorable consideration and early passage to issue of the present application is respectfully requested.

Dated: **October 29, 2004**

Respectfully submitted,
ANTHONY E. MARTINEZ, *et al.*

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9. CLAIMS APPENDIX

1. A method of visually indicating transfer of data in response to a pointing device data transfer command comprising:
modifying a display position indicator on a display screen based on a data transfer command; and
animating data transfer on the display screen based on the data transfer command from a pointing device.
2. The method of claim 1 wherein the data transfer command is selected from a group consisting of cut, paste and copy.
3. The method of claim 1 wherein modifying the display position indicator in response to one of a cut or copy command comprises changing the display position indicator to a position indicator with a reduced object in an indicator bubble.
4. The method of claim 1 wherein animating data transfer in response to one of a cut or copy command comprises reducing a marked object to a reduced object and moving the reduced object through the display position indicator into an indicator bubble.
5. The method of claim 4 further comprising:
moving the marked object towards the display position indicator while the object is being reduced.

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6. The method of claim 1 wherein modifying the display position indicator in response to a paste command comprises changing the display position indicator with a reduced object in an indicator bubble to a position indicator without a reduced object in an indicator bubble.

7. The method of claim 1 wherein animating data transfer in response to a paste command comprises moving a reduced object from an indicator bubble in the display position indicator through the display position indicator, expanding the reduced object, and inserting the expanded object into a location indicated by a insertion marker.

8. The method of claim 7 further comprising:
moving the expanding reduced object towards a insertion marker while the reduced object is expanded.

9. Computer usable medium including a program for visually indicating transfer of data in response to a pointing device data transfer command comprising:

computer readable code for modifying a display position indicator on a display screen based on a data transfer command; and

computer readable code for animating data transfer on the display screen based on the data transfer command from a pointing device.

10. The computer usable medium of claim 9 wherein the data transfer command is selected from a group consisting of cut, paste and copy.

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11. The computer usable medium of claim 9 wherein modifying the display position indicator in response to one of a cut or copy command comprises changing the display position indicator to a position indicator with a reduced object in an indicator bubble.

12. The computer usable medium of claim 9 wherein animating data transfer in response to one of a cut or copy command comprises reducing a marked object to a reduced object and moving the reduced object through the display position indicator into an indicator bubble.

13. The computer usable medium of claim 12 further comprising:
moving the marked object towards the display position indicator while the object is being reduced.

14. The computer usable medium of claim 9 wherein modifying the display position indicator in response to a paste command comprises changing the display position indicator with a reduced object in an indicator bubble to a position indicator without a reduced object in an indicator bubble.

15. The computer usable medium of claim 9 wherein animating data transfer in response to a paste command comprises moving a reduced object from an indicator bubble in the display position indicator through the display position indicator, expanding the reduced object, and inserting the expanded object into a location indicated by a insertion marker.

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16. The computer usable medium of claim 15 further comprising:
computer readable code for moving the expanding reduced object towards a insertion
marker while the reduced object is expanded.

17. A computer usable medium including a program for visually indicating
transfer of data in response to a pointing device data transfer command comprising:
means for modifying a display position indicator on a display screen based on
a data transfer command; and
means for animating data transfer on the display screen based on the data
transfer command from a pointing device.

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10. CLAIMS APPENDIX

Appellants entered no evidence pursuant to §1.130, 1.131 or 1.132, and the Examiner entered no evidence that was relied upon by Appellants.

11. RELATED PROCEEDINGS APPENDIX

There are no copies of related decisions or proceedings.